UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,501	08/22/2003	David Peyton Cox	200206848-1	8776

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EXAMINER
PANTOLIANO JR, RICHARD

ART UNIT	PAPER NUMBER
2194	

NOTIFICATION DATE	DELIVERY MODE
12/31/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Advisory Action *Before the Filing of an Appeal Brief*	Application No. 10/645,501	Applicant(s) COX, DAVID PEYTON	
	Examiner Richard Pantoliano Jr	Art Unit 2194	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>15 November 2007</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

    b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ They raise the issue of new matter (see NOTE below);

    (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: <u>*1-28*</u>.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments in regard to the prior art rejections of Claims 1-28 are not persuasive.

Applicant argues:
a) the "universal driver" of Shaw (US Pat: 5,604,843) is not analogous to the claimed "multi-role driver" because the universal driver performs "substantially the same role with respect to a number of instances of the same class of device" while the multi-role driver performs a "substantially different role with respect to several distinct classes of devices";
b) the teachings of Applicant's Admitted Prior Art (AAPA) and Shaw cannot be combined because the very purpose of Applicant's invention is to eliminate the single AddDevice routine of a multi-role driver; and
c) the teachings of the present invention cannot be applied to Shaw because "the minidriver always receives the calls from the OS (GDI) and forwards to the universal driver", while in the claimed invention "the helper driver receives any call that it must forward to the multi-role driver".

As to (a), examiner respectfully disagrees and notes that Applicant is incorrect in equating the uni-role driver with a multi-role driver. In the Final Office Action mailed 17 July 2007, all claim limitations which required only a multi-role driver were rejected over AAPA in view of Shaw. The only instance in which Shaw was used in and of itself was in the rejection of Claim 6. In Claim 6, the final limitation of that claim required "passing the PDO from the first driver to a multi-role second driver or to a component of the kernel". With such claim construction, having a multi-role driver was not necessary to meet the claim limitation.

As to (b), examiner respectfully disagrees. Applicant's invention deals only with removing the complexity of having a single AddDevice routine for a multi-role driver that contains code that is specific to each device. Essentially, while the name of the function used by all of the devices is the same and, thus, the functionality for those devices is put into the same function, the actual operations being performed for each device are different. That is, unrelated functionality is placed in the same function simply because the name of the function for each device is shared. Examiner used, as the basis for motivation in combining the teachings of APA with Shaw, the reduction of complexity provided by taking the functionality shared between the different drivers creating a single function to be used across all of the drivers. Creating functions that implement shared functionality is different from sharing a function that has different functionality for each device. As such, the motivation used in combining AAPA with Shaw, said motivation being taken directly from Shaw, is sufficient for combining the references.

As to (c), examiner respectfully disagrees and notes that Shaw teaches that the minidrivers forward the OS calls to the appropriate portion of the unidriver for the particular device being accessed (see Col. 4, lines 23-25). That is exactly the function served by Applicant's claimed helper drivers.

In view of the above, examiner respectfully submits that Applicant has failed to provide persuasive arguments to overcome the rejection of the pending claims. As such, the rejection of Claims 1-28 stands.